

**WORK SESSION**  
**April 2, 2019**  
**4:00 p.m.**

**1. Agenda Review**

**AGENDA**  
**CITY OF MORRISTOWN, TENNESSEE**  
**CITY COUNCIL MEETING**  
**April 2, 2019**  
**5:00 p.m.**

**1. CALL TO ORDER**

Mayor Gary Chesney

**2. INVOCATION**

Reverend Jonathon Bewley, Chaplain, Morristown Police Department

**3. PLEDGE OF ALLEGIANCE**

**4. ROLL CALL**

**5. APPROVAL OF MINUTES**

1. March 19, 2019

**6. PROCLAMATIONS/PRESENTATIONS**

**7. CITIZEN COMMENTS ABOUT AGENDA ITEMS ONLY**  
**(Other than items scheduled for public hearing.)**

**8. OLD BUSINESS**

**8-a. Public Hearings & Adoption of Ordinances/Resolutions**

**9. NEW BUSINESS**

**9-a. Resolutions**

**9-b. Introduction and First Reading of Ordinances**

**9-c. Awarding of Bids/Contracts**

1. Approval of Memorandum of Understanding between Hamblen County Board of Education and the City of Morristown for the Work Based Learning (WBL) Internship Program.
2. Approval of Contract between Hamblen County Government and the City of Morristown for use of the Hamblen County Community Service Program.
3. Approval of Contract for Construction Engineering Inspection (CEI) Services for West Andrew Johnson Highway with Mattern & Craig.
4. Approval of Multi-Modal Access Grant Contract with the State of Tennessee Department of Transportation (TDOT) for various sidewalk improvements along SR-34 from Hampton West Boulevard to Terrace Lane.
5. Approval of Contract with Michael Baker International for Engineering Services of Central Church Road Improvements subject to approval from the State of Tennessee Department of Transportation (TDOT).
6. Approval of Bid for Tree Obstruction Removal Project at the Morristown Regional Airport subject to approval from the State of Tennessee Department of Transportation (TDOT) Aeronautics Division.
7. Approval of Recommendation from George Armour Ewart, Architect to accept the bid from Burke Ailey in the amount of \$665,582 for Phase III Site Improvements for Petoskey Plastics.

**9-d. Board/Commission Appointments**

**9-e. New Issues**

**10. CITY ADMINISTRATOR'S REPORT**

**11. COMMUNICATIONS/PETITIONS**

**This is the portion of the meeting where members of the audience may speak subject to the guidelines provided.**

**12. COMMENTS FROM MAYOR/COUNCILMEMBERS/COMMITTEES**

### 13. ADJOURN

#### City Council Meeting/Holiday Schedule:

April 16, 2019	Tuesday	3:45 p.m.	Finance Committee Meeting Review
April 16, 2019	Tuesday	4:15 p.m.	Work Session – Council Agenda Review
April 16, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
April 19, 2109	Friday		City Employee’s Holiday - Good Friday
April 25, 2019	Thursday	7:00 p.m.	Community/Council Listening Roundtable – United Methodist Church – Panther Springs, 4555 W. Andrew Johnson Hwy.
May 7, 2019	Tuesday		City Election Day
May 7, 2019	Tuesday	4:00 p.m.	Work Session – Council Agenda Review
May 7, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
May 13, 2019	Monday	5:00 p.m.	“Sine Die” – Swear in of Councilmembers & Mayors
May 21, 2019	Tuesday	3:45 p.m.	Finance Committee Meeting Review
May 21, 2019	Tuesday	4:15 p.m.	Work Session – Council Agenda Review
May 21, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
May 27, 2019	Monday		City Employee’s Holiday – Memorial Day
June 4, 2019	Tuesday	4:00 p.m.	Work Session – Council Agenda Review
June 4, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
June 18, 2019	Tuesday	4:00 p.m.	Work Session – Council Agenda Review
June 18, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
July 2, 2019	Tuesday	4:00 p.m.	Work Session – Council Agenda Review
July 2, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
July 4, 2019	Thursday		City Employee’s Holiday Independence Day
July 16, 2019	Tuesday	3:45 p.m.	Finance Committee Meeting
July 16, 2019	Tuesday	4:15 p.m.	Work Session – Council Agenda Review
July 16, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
August 6, 2019	Tuesday	4:00 p.m.	Work Session – Council Agenda Review
August 6, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
August 20, 2019	Tuesday	4:00 p.m.	Work Session – Council Agenda Review
August 20, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session

### WORK SESSION AGENDA APRIL 2, 2019

1. Tennessee College of Applied Technology (TCAT) Update
2. Zoning Ordinance - Definition of a Family

**STATE OF TENNESSEE  
COUNTY OF HAMBLEN  
CORPORATION OF MORRISTOWN  
MARCH 19, 2019**

The City Council for the City of Morristown, Hamblen County, Tennessee, met in regular session at the regular meeting place of the Council in the Morristown City Center at 5:00 p.m., Tuesday, March 19, 2019, with the Honorable Mayor Gary Chesney presiding and the following Councilmembers present; Dennis Alvis, Chris Bivens, Bob Garrett, Tommy Pedigo, Kay Senter and Ken Smith.

Reverend Mike Cutshaw, Chaplain, Morristown Police Department led in the invocation and Councilmember Dennis Alvis led the "Pledge of Allegiance".

Councilmember Garrett made a motion to approve the March 5, 2019, minutes as circulated. Councilmember Senter seconded the motion and upon roll call; all voted "aye".

Mayor Chesney and the City Council presented a \$1,000 check to graduating Seniors from East High School for Project Graduation.

The Public Hearing relating to Ordinance 3629 reconvened; no one spoke.

Councilmember Smith made a motion to approve Ordinance No. 3629 on second and final reading. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

**Ordinance No. 3629**

An Ordinance of the City Council of Morristown, Tennessee, Amending the Municipal Code of the City of Morristown, Tennessee, Appendix B. {Rezoning of certain properties located along Progress Parkway and South Davy Crockett Highway/25E from Heavy Industrial (HI) to Tourist Accommodation (TA)}.

Councilmember Senter made a motion to table the proposed Ordinance of the City Council of Morristown, Tennessee, Amending Title 14 (Zoning and Land Use Controls), Amending Chapter 2, Section 14-203, Definitions of the Morristown Municipal Code and hold a work session for further review. Councilmember Pedigo seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to approve Change Order No. 2 for Public Works Project Phase I in the amount of \$433,551.76 on contract with East Tennessee Turf and Landscape. Councilmember Alvis seconded the motion and upon roll call; Councilmember Senter, Alvis, Smith, Pedigo and Mayor Chesney voted "aye", Councilmember Garrett and Bivens voted "no".

Councilmember Alvis made a motion to reject the bids submitted for Tennis Courts. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Councilmember Senter made a motion to approve the Contract Amendment with McGill & Associates for the Freddie Kyle Trail - Phase 4 Construction Phase Services in the amount of \$40,000. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Councilmember Bivens made a motion to approve Purchase Order #19002015-00 in the amount of \$19,486 to Gulf States Distributors, Inc. for taser purchase for the Morristown Police Department. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Alvis made a motion to approve the Sponsorship Agreement between the City of Morristown and Dicks Sporting Goods Councilmember Smith seconded the motion and upon roll call; all voted “aye”.

Councilmember Senter made a motion to approve the contract between the City of Morristown on behalf of the Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO) and Mattern and Craig Associates for the Bicycle and Pedestrian Plan. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Mayor Gary Chesney announced the next Community/Council Roundtable will be held on March 28, 2019 beginning at 7:00 p.m. at Panther Springs Methodist Church.

Mayor Chesney adjourned the March 19, 2019 City Council meeting at 5:38 p.m.

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MAYOR

ATTEST:

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CITY ADMINISTRATOR



## **Morristown City Council Agenda Item Summary**

**Date:** April 2, 2019

**Agenda Item:**

**Prepared by:** Larry Clark

**Subject:** Contract between Hamblen County BOE and City

**Background / History:** Morristown has provided internships in the past to students in various fields of study or for general duties.

**Findings / Current Activity:** Hamblen County BOE has an internship program to allow students to help develop skills in the work place. Contract has been reviewed by the City Attorney.

**Financial Impact:** Funds would come from specific department's budget.

**Action options / Recommendations:** Approval of contract for internship

**Attachments:** Contract

# Memorandum of Understanding

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Between  
Hamblen County Department of Education



and  
The City of Morristown, Tennessee

**Background:** The Work-Based Learning (WBL) internship is a proactive approach to bridging the gap between high school and high-demand, high-skill careers in Tennessee. Students build on classroom-based instruction to develop employability skills that prepare them for success in postsecondary education and future careers. WBL allows students in particular programs of study to apply school-based content and skills in a real workplace, use complex and critical thinking and problem-solving skills to address work problems and understand the relationship between classroom theory and work application. An important component of this experience is the creation of learning goals/objectives.

**Goals:** To enhance student job skills and to develop additional soft skills that strengthen personal qualities important in the workforce. Interns will not only apply the theory and skills learned in the classroom, but also develop skills in analysis and evaluation, problem solving and decision-making in the work environment. By investing in WBL employers will be involved in training their future workforce and also provide schools an opportunity to develop qualified employees.

**Employer Responsibilities:**

1. Assign a mentor that will work closely with the intern during the WBL experience. This will be the primary contact with the WBL coordinator.
2. Reiterate the importance of nondisclosure/confidentiality as it applies to your specific department.
3. Reiterate the importance of conduct rules and reasons for immediate termination of internship.
4. Review Safety rules and emergency procedures, including the location of emergency exits, and other safety equipment.

5. Be clear in regards to specific department procedures.
6. Provide ongoing updates and feedback to the student and WBL coordinator.
7. Communicate with WBL coordinator when he/she makes supervisory visits.
8. Student interns are required to work between twenty to forty hours per week.
9. Student interns will be paid ten dollars per hour (\$10.00) or an agreed upon wage between the partnership.
10. Student interns with the support and guidance of the employer's mentor and the WBL coordinator will prepare an exit presentation which will highlight the WBL internship experience. This presentation will be made in front of school officials, media, and other potential stakeholders at a site to be determined.
11. Duration of internship: The beginning date for the WBL internship will be \_\_\_\_\_ and the end date is scheduled for \_\_\_\_\_.

**Contact Information**

**Partner 1: Hamblen County Department of Education**

**Partner 2:** \_\_\_\_\_

<b>Partner Representative</b> _____
<b>Position</b> _____
<b>Address</b> _____
<b>Telephone</b> _____
<b>Fax</b> _____
<b>Email</b> _____

<b>Partner 1 signature</b> _____	<b>Date</b> _____
<b>Partner 2 signature</b> _____	<b>Date</b> _____





## **Morristown City Council Agenda Item Summary**

**Date:** April 2, 2019

**Agenda Item:**

**Prepared by:** Larry Clark

**Subject:** Contract between Hamblen County Government and the City of Morristown

**Background / History:** Parks and Rec continues to explore ways to aid in the upkeep of our Park System.

**Findings / Current Activity:** Hamblen County has a Community Service program to allow individuals to work Community Service projects in lieu of jail time. Staff is looking to use this program to help assist Park & Rec in cleaning up the parks (i.e. litter pick up).

**Financial Impact:** Funds would be minimal and would come from Park & Rec's budget.

**Action options / Recommendations:** Approval of contract

**Attachments:** Contract

**DON BAIRD**

Director

**Division of Probation and Community Service****General Sessions Court**

510 Alleen Street

Morristown, Tennessee 37804

Phone: (423) 581-4530

Fax: (423) 318-1554

**Office (423) 581-4530****Fax (423) 318-1554****FAX TRANSMISSION COVER SHEET****DATE:** 3-26-19**TO:** Craig Price**FAX:** 318-1544**RE:** Application**SENDER:** Jimmy Hooker

**YOU SHOULD RECEIVE 2 PAGE(S) INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL (423) 581-4530.**

Here is The application Don uses and keeps on file for all nonprofit agencies. Please let us know if you need anything. Don will return on Monday.

Thank you,  
Jimmy

[Return to Agenda](#)

**HAMBLLEN COUNTY GENERAL SESSIONS COURT**  
**COMMUNITY SERVICE**  
**APPLICATION AND AGREEMENT WITH SUPERVISING AGENCY**

- 1) AGENCY NAME AND TAX EXEMPT NUMBER: \_\_\_\_\_
- 2) ADDRESS OF AGENCY: \_\_\_\_\_
- 3) TELEPHONE: (\_\_\_\_) \_\_\_\_\_ CONTACT PERSON: \_\_\_\_\_
- 4) JOB SKILLS NEEDED AND NUMBER OF PROBATIONERS REQUESTED: \_\_\_\_\_  
 \_\_\_\_\_
- 5) WORK SITE LOCATION AND SPECIFIC WORK PROJECT: \_\_\_\_\_  
 \_\_\_\_\_
- 6) HOURS AND DAYS OF THE WEEK THE WORK WILL BE DONE: \_\_\_\_\_
- 7) NAME OF PERSON RESPONSIBLE FOR SUPERVISION: \_\_\_\_\_
- 8) ANTICIPATED PERIOD OF TIME THE WORK PROJECT WILL TAKE TO COMPLETE: \_\_\_\_\_

As the representative of the supervising agency participating in the Work Project Program, I understand that I am responsible for:

1. The supervision of each probationer working for my agency through this program;
2. All records required by the coordinator;
3. Seeing that all injuries are reported immediately to the coordinator;
4. Notifying all supervisors that anyone falsifying records or showing favoritism toward any probationer could result in termination of the program;
5. Seeing that all supervisors require probationers to wear safety devices as the situation may require;
6. See that no tasks which would reasonably endanger life or safety is assigned to any probationer;
7. Seeing that any problems from probationers are reported immediately to the coordinator. Such problems may include, but are not limited to: a) uncooperativeness, b) tardiness, c) possession of any weapon, d) possession or use of any narcotics, alcohol, or drugs, e) use of profanity, f) dangerous horseplay.
8. Seeing that no probationer does work for the personal benefit of anyone associated with the supervising agency.

The supervising agency accepts responsibility for the supervision of all probationers assigned to the agency. Should the supervising agency desire to be insured against any risk associated with the program, it is the supervising agency's responsibility to obtain and pay for such insurance coverage.

I have the authority to bind the supervising agency to the terms of the agreement; I agree to abide by the terms of this agreement; the agreement has been adequately explained to me, and I acknowledge receiving a copy of this agreement.

**FOR OFFICIAL USE ONLY**

Date Received: \_\_\_\_\_

☐ Application Approved

☐ Application Deferred Until: \_\_\_\_\_  
 \_\_\_\_\_

☐ Application Rejected: Reason(s): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

BY: \_\_\_\_\_

COORDINATOR: \_\_\_\_\_

DATE: \_\_\_\_\_

## Project Understanding

Based on the information provided, Mattern & Craig (ENGINEER) proposes the following general Scope of Services, Fee, and Schedule for the rehabilitation of W. Andrew Johnson Highway, from Walters Drive to Fairmont Avenue, in the City of Morristown (OWNER). In addition to the services described in Task Order 1 for this project, the ENGINEER will provide Construction Engineering Inspection (CEI) services in accordance with TDOT guidelines and standards for this project.

All services will be performed in accordance with the latest edition of the TDOT Local Government Guidelines for the Management of Federal and State Funded Transportation Projects.

## Task 4 –Construction Engineering Inspection (“CEI”) Services (*Construction Phase*)

ENGINEER shall provide Construction Engineering Inspection services related to the TDOT funded construction project including:

- Conduct materials testing including field concrete tests, and compaction and asphalt testing, and asphalt plant inspection as required.
- Review all shop drawings and submittals.
- Ensure daily logs are kept up-to-date.
- Ensure all Change Orders are submitted and approved by OWNER and TDOT before moving forward with changes.
- Prepare pay estimates, review with Contractor and recommend payments.
- Provide project status reports to TDOT Project Manager as required.
- Do a complete walk through on project for approval and acceptance by OWNER and TDOT,
- Perform any other CEI related services required to ensure the successful completion of the project.

## Schedule

Time of completion shall be based on the Construction Contract times.

## Fee and Expenses

ENGINEER will perform the services described above on an hourly pay-roll multiplier Cost plus Fixed-Fee basis with an estimated amount of **\$100,000.00**. The fees are based on the following estimated hourly pay-roll costs:

<u>INDIVIDUAL</u>	<u>RATE</u>
• Principal	\$185.00
• Construction Manager	\$135.00
• Troxler Density Technician	\$ 90.00
• Concrete Inspector	\$ 90.00
• Asphalt Plant Technician	\$ 90.00
• Records Clerk	\$ 75.00

## Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the City of Morristown's Engineers Joint Contract Documents Committee (EJCDC) Agreement: E-505, Standard Form of Agreement Between Owner and Engineer for Professional Services – Task Order Edition. This exhibit is considered Task Order Number 003 for the above referenced contract. As used in the Agreement, "Engineer" shall refer to **Mattern & Craig, Inc.**, and "Owner" shall refer to the **City of Morristown, Tennessee**.

The Effective Date of Task Order 003 is \_\_\_\_\_.

OWNER:

ENGINEER:

By: \_\_\_\_\_

By: Randy W. Beckner

Name: \_\_\_\_\_

Name: Randy W. Beckner, P.E.

Title: \_\_\_\_\_

Title: Chairman of the Board

Engineer License or

Firm's Certificate Number: PE# 101559

State of: Tennessee

DESIGNATED REPRESENTATIVE:

DESIGNATED REPRESENTATIVE:

By: \_\_\_\_\_

By: D. Jason Snapp

Name: Paul Brown, RLS

Name: D. Jason Snapp, P.E.

Title: Public Works Director

Title: Project Manager

Address:

P. O. Box 1499  
Morristown, Tennessee 37816-1499

Address:

429 Clay Street  
Kingsport, Tennessee 37660

E-mail Address:

pbrown@mymorristown.com

E-mail Address:

djsnapp@matternandcraig.com

Phone: 423-585-4658

Phone: 423-245-4970

Fax: 423-586-4661

Fax: 423-245-5932

**GRANT CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF TRANSPORTATION  
AND  
CITY OF MORRISTOWN**

This Grant Contract made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the State of Tennessee Department of Transportation (hereinafter referred to as the "Department") and City of Morristown (hereinafter referred to as the "Agency") is for the provision of the Various sidewalk improvements along SR-34 from Hampton West Boulevard to Terrace Lane as further defined in the "SCOPE OF PROJECT."

Agreement Number: 190035

Project Identification Number (PIN): 128609.00

State Project Number: 32LPLM-S3-068

**A. SCOPE OF PROJECT:**

- A.1. The Agency shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Grant Contract.
- A.2. Description: Construction and reconstruction of sidewalks, ADA upgrades, drainage improvements, pedestrian signals, and crosswalk striping.
- A.3. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Agency's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.
  - a. this Grant Contract document;
  - b. the Grant Budget (Attachment 1);
  - c. the Agency's Multimodal Access Grant Guidelines and Multimodal Access Grant Application, incorporated by reference to elaborate supplementary Scope of Project specifications (located at <http://www.tn.gov/tdot/topic/multimodal-multimodal-access-grant>).
  - e. the most current version of the Department's Local Government Guidelines for the Management of Federal and State Funded Transportation Projects (located at [http://www.tn.gov/assets/entities/tdot/attachments/LGG\\_Manual.pdf](http://www.tn.gov/assets/entities/tdot/attachments/LGG_Manual.pdf)) to elaborate the processes, documents, and approvals necessary to obtain funds under this Grant Contract.

**B. CONTRACT PERIOD:**

- B. 1. This Grant Contract shall be effective from the period beginning March 1, 2019, and ending March 1, 2023. The Agency shall provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase within March 1, 2021. If the Agency does not provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by the aforesaid date, then the Department may terminate this Agreement.



The Agency hereby acknowledges and affirms that the Department shall have no obligation for Agency services or expenditures that were not completed within this specified contract period.

- B. 2. An extension of the aforesaid completion date of this Agreement may only be effected by a written amendment to the Agreement, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement. Otherwise, without an extension of the aforesaid completion date of this Agreement, the Department shall have no obligation to reimburse the Agency for expenditures after the aforesaid completion date.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the Department under this Grant Contract exceed Eight Hundred Eighty-Seven Thousand Two Hundred Twenty-Nine Dollars and Seventy Cents (\$887,229.70). The Grant Budget, attached and incorporated hereto as Attachment 1, shall constitute the maximum amount due the Agency for all service and Agency obligations hereunder. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Agency.
- C.2. Compensation Firm. The maximum liability of the Department is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Agency shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the maximum liability established in Section C.1. Upon progress toward the completion of the work, as described in Section A of this Grant Contract, the Agency shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. The Agency shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Agency shall invoice the Department no more often than monthly, with all necessary supporting documentation, and present such to:

LPD.Invoices@tn.gov

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Agency).
  - (2) Invoice Date.
  - (3) Invoice Period (to which the reimbursement request is applicable).
  - (4) Grant Contract Number (assigned by the Department).
  - (5) Grantor: State of Tennessee, Department of Transportation, Division of Multimodal Transportation Resources.
  - (6) Grantor Number (assigned by the Agency to the above-referenced Grantor).
  - (7) Agency Name.
  - (8) Agreement Number, Project Identification Number (PIN), and State Project Number Referenced in Preamble of this Grant Contract.
  - (9) Agency Remittance Address.
  - (10) Agency Contact for Invoice Questions (name, phone, and/or fax).
  - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:



- i. The amount requested by Grant Budget line-item (including any documentation and receipts attached to the invoice).
- ii. The amount reimbursed by Grant Budget line-item to date.
- iii. The total amount reimbursed under the Grant Contract to date.
- iv. The total amount requested (all line-items) for the Invoice Period.

b. The Agency understands and agrees to all of the following.

- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
- (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
- (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the Department is in receipt of the invoice, and the invoice meets the minimum requirements of this Section C.5.
- (4) An invoice under this Grant Contract shall be presented to the Department within ninety (90) days after the end of the calendar month in which the subject costs were incurred or services were rendered by the Agency. An invoice submitted more than ninety (90) days after such date will NOT be paid. The Department will not deem such Agency costs to be allowable and reimbursable by the Department unless, at the sole discretion of the Department, the failure to submit a timely invoice is warranted. The Agency shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Agency's plan for submitting future invoices as required, and it must be signed by an Agency agent that would be authorized to sign this Grant Contract.

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Agency may vary from a Grant Budget line-item amount by up to ten percent (10%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.

C.7. Indirect Cost. Should the Agency request reimbursement for indirect cost, the Agency must submit to the Department a copy of the indirect cost rate approved by the cognizant federal agency and the Department. The Agency will be reimbursed for indirect cost in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Agency makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the contract period. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency and the Department. If the indirect cost rate is provisional during the period of this Grant Contract, once the rate becomes final, the Agency agrees to remit any overpayment of funds to the Department, and subject to the availability of funds the Department agrees to remit any underpayment to the Agency.

C.8. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the contract period.

- C.9. Payment of Invoice. A payment by the Department shall not prejudice the Department's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the Department shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.10. Non-allowable Costs. Any amounts payable to the Agency shall be subject to reduction for amounts included in any invoice or payment that are determined by the Department, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.11. Department's Right to Set Off. The Department reserves the right to set off or deduct from amounts that are or shall become due and payable to the Agency under this Grant Contract or under any other agreement between the Agency and the Department under which the Agency has a right to receive payment from the Department.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The Department is not bound by this Grant Contract until it is signed by the contract parties.
- D.2. Modification and Amendment. Except as specifically provided herein, this Grant Contract may be modified only by a written amendment signed by all parties hereto.
- D.3. Termination for Convenience. The Department may terminate this Grant Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount, for which the Department is liable, shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Agency fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Agency violates any terms of this Grant Contract, the Department shall have the right to immediately terminate the Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Grant Contract by the Agency.
- D.5. Subcontracting. The Agency shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the Department. If such subcontracts are approved by the Department, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," "Records," "Monitoring," "State and Federal Compliance," "Title VI," "Americans with Disabilities Act," and "Governing Law" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Agency shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Agency warrants that no part of the total Grant Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or

consultant to the Agency in connection with any work contemplated or performed relative to this Grant Contract.

D.7. Lobbying. The Agency certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate this Grant Contract upon written notice to the Agency. The Department's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Grant Contract. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.10. Nondiscrimination. The Agency hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Agency on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Agency shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.11. HIPAA Compliance. The Department and the Agency shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Agency warrants to the Department that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.
  - b. The Agency warrants that it will cooperate with the Department, including cooperation and coordination with Department privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
  - c. The Department and the Agency will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the Department and the Agency in compliance with the Privacy Rules. This provision shall not apply if information received by the Department under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the Department to receive such information without entering into a business associate agreement or signing another such document.
- D.12. Public Accountability. If the Agency is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4, or if this Grant Contract involves the provision of services to citizens by the Agency on behalf of the State, the Agency agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Agency shall display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:
- NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454
- The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Agency, provide Agency with any necessary signs.
- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Agency shall include the statement, "This project is funded under an agreement with the State of Tennessee." All notices by the Agency in relation to this Grant Contract shall be approved by the Department.
- D.14. Licensure. The Agency and its employees and any approved sub-grantees shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Agency and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Agency and any approved subcontractor, insofar as they relate to work performed or money received under this



Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Agency records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Agency shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Agency shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Agency shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Agency's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the Department, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Agency shall submit brief, periodic, progress reports to the Department as requested.
- D.18. Annual Report and Audit. The Agency shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Grant Contract to the Commissioner or head of the Department, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Agency that receives five hundred thousand dollars (\$500,000) or more in aggregate federal and State of Tennessee funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Agency and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating

to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

- D.19. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or contracted services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Agency shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for such decision and non-competitive procurement. Further, and notwithstanding the foregoing, if such reimbursement is to be made with funds derived wholly or partially from federal sources, the determination of cost shall be governed by and reimbursement shall be subject to the Agency's compliance with applicable federal procurement requirements.

The Agency shall obtain prior approval from the Department before purchasing any equipment under this Grant Contract.

- D.20. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.21. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.  
The Agency, being a political subdivision of the State of Tennessee, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State of Tennessee beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.
- D.22. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Agency or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.23. Force Majeure. The obligations of the parties to this Grant Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.24. State and Federal Compliance. The Agency shall comply with all applicable State of Tennessee and federal laws and regulations in the performance of this Grant Contract.

- D.25. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.26. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.27. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.28. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.29. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The Department:

Jessica Wilson, Bicycle and Pedestrian Coordinator  
Tennessee Department of Transportation, Multimodal Transportation Resources Division  
James K. Polk Building, Suite 1800  
Nashville, TN 37243  
Jessica.L.Wilson@tn.gov  
Telephone #: 615-741-5025

The Agency:

Michael Poteet, Stormwater Coordinator  
City of Morristown  
P.O. Box 1499

Morristown, TN 37816-1499  
mpoteet@mymorristown.com  
Telephone 423-312-5945

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.4. No Equipment Acquisition. This Grant Contract does not involve the acquisition and disposition of equipment acquired with funds provided under this Grant Contract.
- E.5. Department Right-of-Way. Nothing in this Grant Contract shall be construed to limit the Department's right to enter upon its highway right-of-way at any time.
- E.6. Maintenance. The Agency shall be responsible for the maintenance of the project. As an example, if the project funded hereunder results in the installation of any equipment, including but not limited to, traffic signals, lighting, electronically operated devices, solar-powered devices, then the Agency shall be responsible for and pay all costs associated with the maintenance and operation of the aforesaid equipment.
- E.7. Traffic Control. The Agency shall comply with and provide traffic control in accordance with the requirements of the current Manual on Uniform Traffic Control Devices. If proper compliance and traffic control is not in place, the Department may order the Agency to stop work until proper compliance and traffic control is put in place.
- E.8. Environmental Requirements. In the performance of this Grant Contract the Agency shall comply with all applicable environmental regulations and procedures, including but not limited to, the environmental procedures detailed in the most current version of the Department's Local Government Guidelines for the Management of Federal and State Funded Transportation Projects (located at [http://www.tn.gov/assets/entities/tdot/attachments/LGG\\_Manual.pdf](http://www.tn.gov/assets/entities/tdot/attachments/LGG_Manual.pdf)) incorporated in Section A above. The aforesaid environmental procedures shall include, but not be limited to, complying with the Department's Tennessee Environmental Procedures Manual and Tennessee Environmental Streamlining Agreement, obtaining permits detailed in the Statewide Storm Water Management Plan, performing erosion control plans, performing an Erosion Control Conference when needed, and obtaining applicable permits. The Agency shall be solely responsible for compliance with all applicable environmental regulations and for any liability arising from noncompliance with the aforesaid regulations and the agency shall reimburse the Department for any loss incurred for noncompliance to the extent permitted by Tennessee law.
- E.9. Plans and Specifications. In the performance of this Grant Contract the Agency shall comply with all Department Design Policies and Procedures detailed in the most current version of the Department's Local Government Guidelines for the Management of Federal and State Funded Transportation Projects (located at [http://www.tn.gov/assets/entities/tdot/attachments/LGG\\_Manual.pdf](http://www.tn.gov/assets/entities/tdot/attachments/LGG_Manual.pdf)) incorporated in Section A above. The Agency shall submit to the Department for approval all plans and specifications as detailed in the aforesaid Department's Local Government Guidelines for the Management of Federal and State Funded Transportation Projects.
- E.10. Right-of-Way. In the performance of this Grant Contract the Agency shall comply with all right-of-way procedures detailed in the most current version of the Department's Local Government Guidelines for the Management of Federal and State Funded Transportation Projects (located at [http://www.tn.gov/assets/entities/tdot/attachments/LGG\\_Manual.pdf](http://www.tn.gov/assets/entities/tdot/attachments/LGG_Manual.pdf)) incorporated in Section A above. The aforesaid right-of-way procedures shall include, but not be limited to, complying with applicable state laws, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title - 42 U.S.C. §§ 4601, et seq., 49 C.F.R. Part 24, and the Department's Right-of-Way Procedures Manual.



- E.11. Utilities. In the performance of this Grant Contract the Agency shall comply with all utility procedures detailed in the most current version of the Department's Local Government Guidelines for the Management of Federal and State Funded Transportation Projects (located at [http://www.tn.gov/assets/entities/tdot/attachments/LGG\\_Manual.pdf](http://www.tn.gov/assets/entities/tdot/attachments/LGG_Manual.pdf)) incorporated in Section A above. The Agency shall provide for and accomplish all applicable utility connections within the right-of-way and easements prior to the construction of the project.
- E.12. Title VI. The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.
- E.13. Americans with Disabilities Act. The Agency shall comply with all the requirements as imposed by the Americans with Disabilities Act of 1990 - 42 U.S.C. § 12101, et seq. and the regulations of the federal government issued thereunder.
- E. 14. Tennessee Department of Revenue Registration. The Agency shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- E. 15. Investment of Public Funds. The facility on which this Project is being developed shall remain open to the public and vehicular traffic for a sufficient time after completion of the Project to recoup the public investment therein, for at least the minimum length of time as shown below:

<u>Project Maximum Liability</u>		<u>Facility Open to Public and Vehicular Traffic</u>
\$1.00 - \$200,000	=	At least 5 Years
>\$200,000 - \$500,000	=	At least 10 Years
>\$500,000 - \$1,000,000	=	At least 20 Years

Projects over \$1,000,000 must remain open to public and vehicular traffic for a minimum of 25 years after completion of the Project and will be subject to individual review by the Department.

**IN WITNESS WHEREOF,**

CITY OF MORRISTOWN

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GARY CHESNEY, **MAYOR**

**DATE**

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**PRINTED NAME AND TITLE OF AGENCY SIGNATORY (above)**

**APPROVED AS TO FORM AND LEGALITY**

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**AGENCY ATTORNEY**

**DEPARTMENT OF TRANSPORTATION:**

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**CLAY BRIGHT, COMMISSIONER**

**DATE**

**APPROVED AS TO FORM AND LEGALITY**

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**JOHN REINBOLD, GENERAL COUNSEL**

**GRANT BUDGET**

Agreement Number: 190035

Project Identification Number (PIN) 128609.00

State Project Number: 32LPLM-S3-068

PHASE	GRANT CONTRACT	AGENCY PARTICIPATION	TOTAL PROJECT
NEPA	\$99,750.00	\$5,250.00	\$105,000.00
DESIGN	\$16,150.00	\$850.00	\$17,000.00
RIGHT OF WAY	\$0.00	\$0.00	\$0.00
CONSTRUCTION	\$652,164.55	\$34,324.45	\$686,489.00
CONSTRUCTION ENGINEER INSPECTION (CEI)	\$114,415.15	\$6,021.85	\$120,437.00
DEPARTMENT ENGINEERING OVERSIGHT <sup>1</sup>	\$4,750.00	\$250.00	\$5,000.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
	0.00	0.00	0.00
<b>GRAND TOTAL</b>	<b>\$887,229.70</b>	<b>\$46,696.30</b>	<b>\$933,926.00</b>

<sup>1</sup> "Department Engineering Oversight" is defined as engineering activities provided by and for the Department to conduct grant monitoring.



## **Morristown City Council Agenda Item Summary**

**Date:** March 27, 2019

**Agenda Item:** Approval of Contract – Central Church Road Improvements

**Prepared by:** Joey Barnard, Assistant City Administrator

**Subject:** Central Church Road Improvements Contract

**Background/History:** The City of Morristown identified the need to perform road improvements from West Andrew Johnson Highway (US 11E, SR 34) to Connie Street. The proposed work will include the installation of the following: additional lane(s) to approximately 1,000 feet of an exiting City street, ADA compliant sidewalks with ped-head signalization, traffic signal to be provided include staking of rights-of-way, bidding services, and additional design services required during construction, excluding CEI services as defined by TDOT. Utility relocation and ROW acquisition will likely also be required. The Request for Qualifications Deadline was Thursday, December 13, 2018 at 2:00 pm. Seven (7) responses were received. The proposals were evaluated by a five-member committee. Each member evaluated each proposal independently.

**Findings/Current Activity:** The Selection Committee recommended Michael Baker International (MBI) to be approved as the City's engineering consultant for the project. Council approved Tony Cox, City Administrator to negotiate a contract with MBI based on the terms presented in the Request for Qualifications at the Council Meeting on February 5, 2019.

**Financial Impact:** This project is funded with federal, state and local funds. Local funds have been appropriated in the 2018-19 fiscal year for the consulting services.

**Action options/Recommendations:** Council's approval is sought to enter into a contract with Michael Baker International for the Central Church Road Improvements Contract Project.

**Attachments:** Contract.

**AGREEMENT  
FOR PROFESSIONAL SERVICES  
BETWEEN  
THE CITY OF MORRISTOWN  
And  
MICHAEL BAKER INTERNATIONAL, INC.**

This AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, **2019**, by and between **THE CITY OF MORRISTOWN**, hereinafter called the OWNER, and **MICHAEL BAKER INTERNATIONAL, INC.**, hereinafter called the ENGINEER.

WHEREAS, OWNER has selected ENGINEER in accordance with all applicable laws, regulations, and policies, hereby retains ENGINEER to provide Professional Services in connection with the **CENTRAL CHURCH ROAD IMPROVEMENTS** (Project).

WHEREAS, ENGINEER has represented that it is qualified to provide such services and is willing to do so.

**I. SCOPE OF SERVICES**

The anticipated Scope of Services for the Project is included as Attachment A – Project Understanding to this agreement.

**II. PAYMENT OF SERVICES**

- A. OWNER agrees to compensate ENGINEER for services described in Attachment A – Project Understanding in accordance with one of the following methods as hereinafter set forth. It is further agreed that such compensation includes both direct and indirect costs chargeable to the Project under generally accepted accounting principles and as allowed in the Federal Procurement Regulations Part 1-15.2, and not prohibited by the laws of the State of Tennessee.

Task 1	Project Coordination, Conceptual Engineering, Environmental Documentation (NEPA Phase)	\$134,450.00
Task 2	Design Services (Design Phase)	\$98,710.00
Task 3	Right-of-Way Services (R.O.W. Phase)	TBD
Task 4	Bidding & Negotiation Services (Construction Phase)	\$7,500.00
Total Fee:		<u>\$240,660.00</u>

- B. The following methods of payment shall be used:

ENGINEER's compensation will be based on an hourly rate plus reimbursable expense (time and charges). The ENGINEER's labor rates by labor classification are attached as Attachment B. Labor rates may be adjusted yearly on the anniversary date of the Agreement, as agreed between the OWNER and ENGINEER.

Reimbursable costs include fees of Professional Associates (whose expertise is required to complete the project) and non-standard project expenses. Fees for Professional Associates shall be charged at actual cost plus five (5) percent and shall be itemized in the invoice.

C. Invoices:

1. Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of this agreement. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt of an invoice meeting the requirements of this section. All invoices submitted for payment shall be original hard copies and shall include the following:
  - a) City Project number, City Account Code, and TDOT PIN (if applicable)
  - b) Summary of work completed by consultant for period of invoice, including:
    - i. the Task and/or Phase of the project
    - ii. deliverable(s) provided
    - iii. design milestone(s) achieved
  - c) Summary of design progress for both the invoice period and the overall project, including:
    - i. design progress for each phase and for the overall project
    - ii. explanation of any variances from the original schedule and an action plan to return the project to the schedule
  - d) Summaries of design budget progress for both the invoice period and the overall project, including:
    - i. design budget progress for each phase and for the overall project
    - ii. explanation of any variances from the original budget and an action plan to return the project to the budget
2. Any proposed reallocation of design funds to different phases of the project must be approved by the Owner in writing prior to the work being performed.
  - a) Additional written approval must be granted by all funding agencies participating in the project.
3. For a Project with grant or other agency funding participation:
  - a) The Engineer shall be knowledgeable of reimbursement rules of those agencies.
  - b) Engineer shall provide notice to the Owner of any tasks or actions which the Owner must undertake to accomplish project funding adjustments.
  - c) Within 14 days of receipt of payment from the Owner for services under this Agreement, Engineer shall submit a properly-prepared request for Reimbursement of the Owner's payment to the appropriate funding agency or agencies.

D. Payments:

1. *Application to Interest and Principal*: Payment will be credited first to any interest owed to Engineer and then to principal.
2. *Failure to Pay*: If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice and Owner's failure to pay is not as a result of a dispute regarding an invoice, or a portion thereof, pursuant to 4.02.C, then:
  - a) the compounded amount due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
  - b) Engineer may, after giving seven days written notice to Owner, suspend services under the Agreement issued until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
3. *Disputed Invoices*: If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion. Upon notice to Engineer that an invoice, or a portion thereof, is subject to dispute, the parties may immediately commence the dispute resolution process as follows:
  - a) Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement, or the breach thereof ("Disputes") to mediation by a mediator or mediation service to be jointly selected and agreed upon by both Owner and Engineer. Owner and Engineer agree to participate in the mediation process in good faith. The process should be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction located in Hamblen County, Tennessee or in the United State Federal Court located in Knoxville, Tennessee

Engineer shall continue performance pursuant to this Agreement while the dispute resolution process is underway.

4. *Legislative Actions*: If after the Effective Date of the Project any governmental entity takes a legislative action that imposes sales or use taxes, fees, or charges on Engineer's services or compensation under the Project, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of this Agreement.



### **III. MISCELLANEOUS PROVISIONS**

- A. Opinion of Probable Construction Cost: Since ENGINEER has no control over the cost of labor and materials, or over competitive bidding market conditions, the opinions of probable construction cost provided by ENGINEER are to be made on the basis of experience and qualifications but ENGINEER does not guarantee the accuracy of such estimates as compared to the Contractor's bid for construction of the Project.
- B. Extra Work: It is mutually understood and agreed that OWNER will compensate ENGINEER for services resulting from significant changes in general scope of the Project or its design, including but not necessarily limited to, changes in size, complexity, Project schedules, character of construction, revisions to previously accepted studies, reports, design documents or contract documents and for preparation of documents for separate bids, when such revisions are due to causes beyond ENGINEER's control and when requested or authorized by OWNER. Compensation for such extra work when authorized by OWNER shall be in accordance with Section II.
- C. Design Standards: Digital format drawings must be developed using the current at the time TDOT Design Division approved Microstation CADD level structure and symbologies.

### **IV. OWNERSHIP AND REUSE OF DOCUMENTS**

All original documents, including tracings, plans, specifications, maps, survey notes, sketches, charts, computations and other such data prepared by or obtained by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement, are instruments of service in respect of the Project and shall remain the property of ENGINEER. They are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such use without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or ENGINEER's independent professionals or consultants. OWNER expressly agrees to the extent permitted by law to indemnify and hold ENGINEER, and ENGINEER's independent professionals and consultants, harmless from any and all liability, claims, damages, losses and expenses, including attorney fees, arising out of or the resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates and amounts agreed upon by OWNER and ENGINEER. Notwithstanding the above, OWNER shall be provided, upon request, a reproducible copy of any drawing and other data, including electronic files, produced under this Agreement at the cost of reproduction.

### **V. RESPONSIBILITY OF THE ENGINEER**

- A. OWNER understands that ENGINEER is rendering personal services under this Agreement and that ENGINEER cannot and does not warrant or guaranty that those services will be rendered perfectly or without error. OWNER agrees that each of the obligations of this Agreement are not warranties or guaranty of any kind, and that nothing ENGINEER does or advises shall be construed as a warranty or guaranty of any kind. Services provided by ENGINEER under this Agreement will be performed in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing



under similar circumstances. Upon notice to ENGINEER and by mutual agreement between the parties, ENGINEER will correct those services not meeting such standard without additional compensation. It is understood and agreed between the parties hereto that neither party shall be in any event be liable for loss of profit, loss of business, or other indirect or consequential damages unless otherwise covered by insurance required elsewhere in this instrument.

- B. Approval by Owner or TDOT of drawings, designs, specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve ENGINEER of his responsibility for the technical adequacy of his work.
- C. ENGINEER shall keep OWNER informed of progress made during all phases of the Project and prompt OWNER when ENGINEER or the Project requires action by OWNER. Toward this end ENGINEER shall submit periodic progress reports to OWNER detailing work completed during the period, work anticipated during the coming period, schedule changes, and noting any problem areas.

## **VI. SUBCONTRACTS**

In fulfilling its duties pursuant to this Agreement, OWNER recognizes that ENGINEER may elect to subcontract to others certain portions of the work, but that all provisions within the Agreement remain applicable to the ENGINEER and any of its Subcontractors.

## **VII. TERMINATION**

- A. This Agreement may be terminated in whole or in part in writing by either party under this Agreement through no fault of the terminating party provided that no such termination may be affected unless the other party is given:
  - 1. Not less than ten (10) calendar days written notice of intent to terminate; and
  - 2. An opportunity for consultation with the terminating party prior to termination.
- B. This Agreement may be terminated in whole or in part, in writing, by OWNER for its convenience provided that such termination is for good cause (such as legal or financial reasons or major changes in the work program requirements) and that ENGINEER is given:
  - 1. Not less than ten (10) calendar days written notice of the intent to terminate; and
  - 2. An opportunity for consultation with the terminating party prior to termination.
- C. Upon receipt of a termination notice, ENGINEER shall promptly discontinue all services affected (unless the notice directs otherwise) and deliver or otherwise make available to OWNER copies of all data, drawings, specifications, report estimates, summaries, and such other information and materials as may be accumulated by ENGINEER performed under this Agreement, whether completed or in process, at the cost of reproduction.

- D. If either party terminates this Agreement, ENGINEER shall be paid for services rendered and any expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by ENGINEER relating to commitments, which have become firm prior to termination. If the termination of the Agreement occurs at the conclusion of one phase, payment by OWNER of the completed phase shall be considered full compensation due ENGINEER.

## **IX. REMEDIES**

Except as may be otherwise provided in this Agreement, all claims, counter claims, disputes and other matters in question between OWNER and ENGINEER arising out of or related to this Agreement or the breach thereof must first be submitted to mediation before legal redress may be instituted in a Court of competent jurisdiction located in Hamblen County, Tennessee or in the United States Federal Court located in Knoxville, Tennessee. The parties must make their best efforts to agree upon a duly certified mediator. If this is not accomplished, the parties shall submit to and be bound by a judicial order appointing such mediator.

## **X. AUDIT: ACCESS TO RECORDS**

- A. ENGINEER shall maintain books; records, documents and other evidence directly pertinent to the work under this Agreement in accordance with generally accepted accounting principles and practices. OWNER, TDOT, the Comptroller General of the United States or any of their duly authorized representatives shall have access to any books, documents, papers, records and other evidence which relates directly to the Project for the purpose of examination, audit, excerpts and transcriptions.
- B. Records described above shall be maintained and made available during the performance under this Agreement and for a period of three (3) years after OWNER makes final payment.

## **XI. INSURANCE**

- A. At all times when the Project is under performance, Owner and Engineer shall each procure and maintain insurance as set forth in Exhibit A, "Insurance."
- B. Owner and ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit A.
- C. Both parties agree that required insurance will remain in force during the duration of this Agreement and that any lapse in coverage will not relieve the breaching party of liability.
- D. ENGINEER will maintain Professional Liability coverage for three years after completion of services performed under the terms of the Agreement.
- E. Under the terms of the Agreement, or after commencement of performance of the Agreement, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit A. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional

insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.

- F. When applicable, the Engineer will incorporate the Owner's insurance requirements for Contractors into the bidding documents. The Engineer, when under contract to perform bidding phase services, will verify that the selected Contractor meets the Owner's insurance requirements.

## **XII. CIVIL RIGHTS ASSURANCE**

During the performance of this Agreement, ENGINEER, for itself, its assignees and successors in interest agrees as follows:

- A. Compliance with Regulations. ENGINEER shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations) which are herein incorporated by reference and made a part of this Agreement.
- B. Nondiscrimination. ENGINEER, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including practices when this Agreement covers a program set forth in Appendix B of the Regulations.
- C. Solicitations for Subcontractors, including procurement of materials and equipment. In all solicitations, either by competitive bidding or negotiations made by ENGINEER, for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by ENGINEER of ENGINEER's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports. This Agreement shall provide all information and reports required by Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by OWNER or TDOT to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information ENGINEER shall so certify to OWNER or TDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance. In the event of ENGINEER's noncompliance with the nondiscrimination provisions of this Agreement, OWNER shall impose such Agreement sanctions as it or TDOT may determine to be appropriate, including but not limited to:

1. Withholding of payments to ENGINEER under the Agreement until ENGINEER complies, and/or
  2. Cancellation, termination, or suspension of the Agreement, in whole or in part.
- F. Incorporation of Provisions. ENGINEER shall include the provisions of paragraphs A through E in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. ENGINEER shall take such action with respect to any subcontract or procurement as OWNER or TDOT may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event ENGINEER becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, ENGINEER may request OWNER and/or the United States to enter into such litigation to protect interests of the United States.

### **XIII. DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCES**

- A. Policy: It is the policy of the DOT that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 applies to this Agreement.
- B. DBE Obligation: ENGINEER agrees to ensure that minority business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Agreement. In this regard, ENGINEER shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. ENGINEER shall not discriminate on the basis of race, color, national origin, age, sex, or handicap in the award and performance of DOT-assisted contracts.

### **XIV. OWNER'S RESPONSIBILITY**

OWNER shall:

- A. Provide all criteria and full information as to OWNERS requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; furnish copies of all design and construction standards which OWNER will require to be included in the drawings and specifications.
- B. Assist ENGINEER by placing at its disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- C. Furnish to ENGINEER upon its request, as required for performance of ENGINEER's Scope of Services, any existing available data in OWNER's possession prepared by OWNER or by others, including without limitation core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property description; zoning, deed and other land use restriction; and other special data or consultations, all of which ENGINEER may rely upon in performing its services.

- D. Assist in arranging access to and make all reasonable provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER, and obtain such advice as OWNER deems appropriate and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.
- F. Furnish approvals and permits from all governmental authorities having jurisdiction over each Project and such approvals and consents from others as may be necessary for completion of each Project.
- G. Provide such accounting, independent cost estimating and insurance counseling services as may be required for each Project, and such legal services as OWNER may require pertaining to each Project.
- H. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect in the work of contractor(s).
- I. Bear all costs incident to compliance with the requirements of Section XIV.

#### **XV. MAILING ADDRESSES**

All notices and communications under this Agreement to be mailed or delivered to OWNER shall be sent to the address of OWNER's designated representatives as follows, unless and until ENGINEER is otherwise notified:

Primary contact:

Joey Barnard  
Finance Director  
City of Morristown  
100 West First North Street  
Morristown, TN 37814

Notices and communications to be mailed or delivered to the ENGINEER shall be sent to the address of MICHAEL BAKER INTERNATIONAL, INC. as follows, unless and until OWNER is otherwise notified:

Mr. Jason Bennett, P.E.  
2030 Falling Waters Road, Suite 125  
Knoxville, Tennessee 37922

Any notices or communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted by the sending party.

#### **XVI. LIABILITY**

ENGINEER agrees to indemnify and hold OWNER, its directors, employees and agents harmless against all losses, damages, costs, expenses, including reasonable attorneys fees, and liabilities, which OWNER incurs as a result of any third party claim against OWNER for damages arising from ENGINEER's work performed under this Agreement that were caused by ENGINEER's negligent acts or omissions.

#### **XVII. CONSEQUENTIAL DAMAGES**

Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party regardless of the nature of this fault or whether it was committed by the OWNER or ENGINEER, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

OWNER and ENGINEER for themselves, their successors and assigns hereby agree to the full performance of the covenants contained herein.

Neither OWNER nor ENGINEER shall assign, sublet or transfer their interest in this Agreement without the written consent of the other.

IN WITNESS WHEREOF the parties hereto have executed this Agreement, the day and year first above written.

OWNER:

ENGINEER:

THE CITY OF MORRISTOWN

MICHAEL BAKER INTERNATIONAL,  
INC.

BY: \_\_\_\_\_  
Anthony Cox

BY: \_\_\_\_\_  
Thomas Montgomery

TITLE: City Administrator

TITLE: Vice President

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_



CENTRAL CHURCH ROAD IMPROVEMENTS  
ATTACHMENT A – PROJECT UNDERSTANDING

**Project Understanding**

Based on the information provided, Michael Baker International (ENGINEER) proposes the following general Scope of Services, Fee and Schedule for the Central Church Street Improvements project in the City of Morristown (OWNER). The proposed work will include the installation of an additional lane and modifications for approximately 1000 feet to the existing Central Church Road. The modifications will include curb and gutter with stormwater improvements, ADA compliant sidewalks, traffic signal modifications at the intersection with US-11E including ADA-compliant ped-head signalization, pavement markings and signage as required.

Other services to be provided include contract administration, survey of proposed improvement area, geotechnical investigation of existing conditions, design of improvements, environmental, utility coordination, support services including Tennessee Department of Transportation (TDOT) required public hearings, and right-of-way acquisition.

The ENGINEER will oversee all phases of the project excluding services defined as CEI by TDOT; prepare status reports on a monthly basis which include the schedule of critical path activities, funding summary relative to TDOT funding levels at each phase including consultant activities, notice of any issues that could threaten project budget, and writing recommendations for City Council actions as well as drafting all change orders and work orders that are necessary to execute the project design.

All services will be performed in accordance with the latest edition of the TDOT Local Government Guidelines for the Management of Federal and State Funded Transportation Projects.

**Task 1 – Project Coordination, Conceptual Engineering, Environmental Documentation (NEPA Phase)**

**Task 1.1 - Project Coordination**

Provide oversight of all phases, prepare monthly reports, prepare progress status meeting agendas and meeting minutes, funding status reviews and reports and other items necessary for project design.

**Task 1.2 -Conceptual Engineering and Conceptual Estimate/Budget Assistance**

Collect available mapping (GIS Data) to prepare conceptual alignment for survey and environmental scoping. Initial contact with utility owners to provide notice of the project and request field location marking prior to survey work.

**Task 1.3 - Site Survey**

Ground survey for construction project. Survey consists of a 1200-foot corridor 150' wide along existing Central Church Road. Survey will extend 200 feet in either direction along US-11E for location of utilities and signals. Survey to meet TDOT standards and shall be tied to the Tennessee Geodetic Reference Network. Survey services to include a one-time right-of-way staking after design.

**Task 1.3 - Preliminary Plans Design**

TDOT "Design Guidelines" will be followed for design. Plans will be prepared based on the Project Understanding. Design will be completed to a 30% level to submit for review and use in preparing the NEPA document. This will be sent to Geotech for initializing investigation.

CENTRAL CHURCH ROAD IMPROVEMENTS  
ATTACHMENT A – PROJECT UNDERSTANDING

Task 1.5 - NEPA Document

ENGINEER will contact the TDOT Environmental Division to determine what level of documentation and assessment will be required for environmental clearance. Initial assumption is this will fall under a type of Categorical Exclusion (CE). A NEPA Document will be prepared for the project including coordinating and submitting letters to appropriate agencies for compliance. The “TDOT Local Government Guidelines for Completing the NEPA Process - D List, C List, and Programmatic Categorical Exclusions” will be used for reference. Initial fee budget based on effort to achieve minimal level required to meet environmental clearance. Scope and fee are subject to revisions depending on the level of documentation and assessment TDOT requires.

Task 1 Deliverables

- a. Draft and Final NEPA Document for TDOT review.
- b. Preliminary Design 30% submittal to TDOT and OWNER for review.
- c. Meeting agendas, meeting minutes and action items.
- d. Monthly status reports.

**Task 2 - Design Services (Design Phase)**

Task 2.1 - Geotechnical Studies

It is proposed to make 4 core holes along the existing roadway alignment to evaluate the existing pavement section thicknesses. There will be 2 hand auger borings outside of the existing roadway footprint to evaluate the subsurface conditions in new pavement areas. A geotechnical exploration report will be prepared that includes a boring plan, boring logs, a summary of conditions encountered, and geotechnical recommendations.

Task 2.2 - Traffic Impact Study for Intersection Improvements

Task 2.3 - Design

Incorporate Geotech finding into design plans, finalize Preliminary Plans and submit to TDOT and OWNER for review and comments. Prepare Right-of-Way plans and hold a ROW field review. Receive comments and incorporate into plans. Finalize ROW Plans and submit to TDOT and OWNER. Submit Prepare Construction Plans. Plans will include signal re-design at Hwy 11E. Mast arms are to be installed and coordinated with TDOT and City of Morristown existing signalization grid. Submit plans for Construction Field Review and incorporate agreed upon revisions. The ENGINEER will prepare an Engineer’s Opinion of Probable cost. Contract documents for the execution of the construction contract will be prepared.

Task 2.4 - Utility Coordination

Meet with TDOT Regional Utility Coordinator and issue ROW drawings to Utilities. The utilities are offered 120 days to review and submit utility relocation plans. Submitted plans will be reviewed and improvements coordinated with design. Engineer will coordinate with TDOT if utility is due compensation.



CENTRAL CHURCH ROAD IMPROVEMENTS  
ATTACHMENT A – PROJECT UNDERSTANDING

Task 2 Deliverables

- a. Preliminary Plans package.
- b. Geotech exploration report.
- c. Traffic Impact study report.
- d. Preliminary Engineer's Opinion of Probable cost.
- e. R.O.W Plans package.
- f. Construction Plans package.
- g. Final Engineer's Opinion of Probable cost

**Task 3 - Right-of-Way Services (R.O.W. Phase)**

Task 3.1 - R.O.W. Documents

Meet with TDOT Regional ROW Coordinator. Prepare documents describing any right-of-way or easements to be acquired for the project. These documents will be used to prepare legal documents for the acquisition.

Task 3.2 - Select ROW service contracts

Select a Review Appraiser from the TDOT approved List. This position should be separate from other members. The other team members shall consist of appraiser, negotiator and closing agent.

Task 3.3 - Negotiation and Appraisals

Perform title search, prepare appraisals, prepare and present market value for purchase, submit to Review Appraiser for approval. Prepare formal offer for approval and present to property owner. Negotiate with property owners. After acceptance, close with property owner, prepare and record deed.

Task 3 Deliverables

- a. ROW Documents
- b. Acquired real estate.

**Task 4 - Bidding & Negotiation Services (Construction Phase)**

After acceptance by OWNER and TDOT of the bidding documents, and upon written authorization to proceed by Owner and TDOT, the ENGINEER shall provide the following services:

- Advertise the project in the appropriate publications.
- Hold Pre-Bid conference.
- Address questions and revisions with Addendum.
- Attend bid opening.
- Review bids for completeness.
- Provide tabulation of bids with award recommendation.
- Issue an Notice of Award.

Task 4 Deliverables

- a. Executed Contract Documents

CENTRAL CHURCH ROAD IMPROVEMENTS  
ATTACHMENT A – PROJECT UNDERSTANDING

**Fee and Expenses**

Task 1 - Project Coordination, Conceptual Engineering, Environmental Documentation (NEPA Phase)	\$134,450.00
Task 2 - Design Services (Design Phase)	\$98,710.00
Task 3 - Right-of-Way Services (R.O.W. Phase)	TBD
Task 4 - Bidding & Negotiation Services (Construction Phase)	\$7,500.00
<b>Total:</b>	<b>\$240,660.00</b>

ATTACHMENT B  
BILLING RATES

**CONFIDENTIAL**

**SCHEDULE OF FEES**

<b>CLASSIFICATION</b>	<b>HOURLY RATES</b>
<b>Office Personnel</b>	
Principal	\$184.00
Project Manager	\$145.00
Senior Engineer/Architect/Planner/Environmental	\$128.00
Engineer/Architect/Planner/Environmental	\$107.00
SR. CADD Technician/Designer	\$100.00
CADD Technician	\$ 72.00
Technical Assistant (Clerical)	\$ 65.00

**\*NOTE:**

1. The hourly rates shown above include direct salary cost, labor overhead, general and administrative overhead, and profit. These rates shall remain valid until November 1st, 2019 at a minimum. Direct non-salary expenses such as travel, subsistence, construction vehicle, printing, etc. are not included.
2. Field Representative construction personnel are billed per individual, based on their direct labor cost, plus overhead and profit.

**REIMBURSABLE EXPENSES**

Other expenses that are properly accountable to the work will be invoiced as follows:

- Travel by private vehicle at the then current approved IRS rate per mile.
- Travel and living expenses for all personnel when required to be away from headquarters in connection with the work at cost.
- In-house printing, reproduction and photography at commercial rates.

Outside services contracted for a specific project, such as professional and technical consultants, laboratory testing, reproduction, photography, etc., will be invoiced at the amount of the actual statement plus ten percent (10%).

**CONSTRUCTION VEHICLES**

Leased construction vehicles used for specific projects will be billed at the actual cost per month, per vehicle, and include lease cost, insurance, fuel and maintenance. If the vehicle is not in use the entire month, the billing cost will be pro-rated and charged per day.

## EXHIBIT A

### INSURANCE:

Section XI of the Agreement is amended and supplemented to include the following agreement of the parties.

### XI INSURANCE

- A. The limits of liability for the insurance required by Section XI of the Agreement are as follows:

1. By Engineer

- |   |                    |
|---|--------------------|
| a. Workers' Compensation  | Statutory          |
| b. Employer's Liability –   |                    |
| 1) Each Accident  | <u>\$100,000</u>   |
| 2) Disease, Policy Limit  | <u>\$500,000</u>   |
| 3) Disease, Each Employee   | <u>\$100,000</u>   |
| c. General Liability –  |                    |
| 1) Each Occurrence (Bodily Injury and Property Damage)                        | <u>\$1,000,000</u> |
| 2) General Aggregate  | <u>\$2,000,000</u> |
| d. Excess or Umbrella Liability –   |                    |
| 1) Each Occurrence  | <u>\$5,000,000</u> |
| 2) General Aggregate  | <u>\$5,000,000</u> |
| e. Automobile Liability –   |                    |
| 1) Combined Single Limit (Bodily Injury and Property Damage)<br>Each Accident | <u>\$1,000,000</u> |
| f. Professional Liability –   |                    |
| 1) Each Claim Made  | <u>\$4,000,000</u> |
| 2) Annual Aggregate   | <u>\$4,000,000</u> |

2. By Owner

- |                           |                  |
|---------------------------|------------------|
| a. Workers' Compensation  | Statutory        |
| b. Employer's Liability – |                  |
| 1) Each Accident          | <u>\$100,000</u> |

- 2) Disease, Policy Limit \$500,000
- 3) Disease, Each Employee \$100,000

c. General Liability –

- 1) General Aggregate \$2,000,000
- 2) Each Occurrence (Bodily Injury and Property Damage) \$1,000,000

d. Excess Umbrella Liability –

- 1) Each Occurrence N/A
- 2) General Aggregate N/A

e. Automobile Liability –

- 1) Combined Single Limit (Bodily Injury and Property Damage)  
Each Accident \$1,000,000

B. Additional Insureds

1. The Owner shall be listed as an additional insured on all of the following policies which the Engineer has in effect: General Liability, Excess Liability, Umbrella Liability, Environmental Liability, and Automobile Liability.
  - a. The Engineer will provide a copy of the insurance policy endorsement along with their Certificate of Insurance to verify the Liability Insurance Additional Insured status.

C. Workers' Compensation

1. Waiver of Subrogation for the City of Morristown is required.
  - a. The Engineer will provide a copy of the insurance policy endorsement along with their Certificate of Insurance to verify the Workers' Compensation Wavier of Subrogation.
2. The City of Morristown will not accept any owner-partner-member or officer to be excluded from the Workers' compensation coverage except according to Tennessee State law regarding contractors' exemptions.
  - a. A copy of the Workers' Compensation Exemption must be provided with the Certificate of Insurance.

March 28<sup>th</sup>, 2019

Mr. Joey Barnard, Finance Director  
City of Morristown  
100 West First North Street  
Morristown, TN 37814

RE: Letter of Contractor Recommendation  
Tree Obstruction Removal Project  
TAD No. 32-555-0563-19

Dear Mr. Barnard:

This letter shall serve to document that Michael Baker International has reviewed the bids submitted on March 27<sup>th</sup>, 2019 for the above referenced project. The lone Contractor submitting a bid was East Tennessee Turf & Landscaping. The bid was opened publicly and read aloud. The bid amount was as follows:

Contractor	Bid Amount
East Tennessee Turf & Landscaping	\$87,000.00

This bid was reviewed to determine the responsiveness of the contractor. Our conclusion is as follows:

The lowest bid by East Tennessee Turf & Landscaping was complete. No errors were found in unit pricing and extended totals. MBI has verified their license to contract in the State of Tennessee. In the best interest of the project budget we have determined, with concurrence of the low bidder, to establish a starting contract price of \$72,000.00. The revised price is through removal of Item 3 (Temporary Silt Fence), in which mulch berms will be utilized in lieu of. The removal of Item 4 (Seeding) was determined to be beneficial – little disturbance is expected, and heavy mulch will be utilized in all disturbed areas. I have included the bid tabulation with this letter. We have determined that the differences seen between the estimate and bid pricing was primarily due to an increase of equipment costs and mobilization, as well as not permitting burning of material onsite.

We hereby recommend that The City of Morristown award the construction contract to East Tennessee Turf & Landscaping in the amount of \$72,000.00

We will begin contract preparation and distribution after the award of the contract is verified.

Sincerely,



Jason D. Bennett, P.E.  
Office Manager  
Michael Baker International

MORRISTOWN REGIONAL AIRPORT  
TREE OBSTRUCTION REMOVAL  
TAD NO. 32-555-0563-19



28-Mar-19  
JDB

BID TABULATION

					ENGINEER'S ESTIMATE		EAST TN TURF & LANDSCAPE	
ITEM	SPEC.	DESCRIPTION	UNIT	PLANS QUANTITY	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL
1	1000	Mobilization	LS	1	\$2,600.00	\$2,600.00	\$15,000.00	\$15,000.00
2	P-151	Clearing, Grubbing, Tree Removal	AC	6	\$5,000.00	\$30,000.00	\$9,500.00	\$57,000.00
3	E-893	Temporary Silt Fence	LF	1,000	\$4.00	\$4,000.00	\$3.00	\$3,000.00
4	TDOT-801	Seeding	AC	6	\$3,000.00	\$18,000.00	\$2,000.00	\$12,000.00
					TOTAL BASE BID		\$87,000.00	
					BID FORMS COMPLETE		YES	





21 March 2019

Ms. Ashley Ahl  
Purchasing Assistant  
City of Morristown  
100 West First North Street  
Morristown, TN 37814

Re: Petoskey Plastics – Site Improvements – Phase III  
Morristown, Tennessee

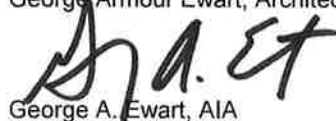
Dear Ashley:

I have received the bid, for the above referenced project, that was opened on Thursday, March 21, 2018 at 11:00 a.m. in the First Floor Training Room of City Hall. We only received a single bid, which was from Burke-Ailey Construction Co., Inc., no other submittals. They are the construction company working on Phase I and Phase II of the above referenced project and have performed on schedule.

Today I had a conversation regarding the bid with Ron Ailey, an owner of Burke-Ailey, making sure all issues have been addressed. After that conversation, I feel confident in recommending them as the successful bidder.

With all the above in mind, I recommend that the City of Morristown, TN enter into a contract with Burke-Ailey Construction Co., Inc. for the base bid of \$596,792.00 plus sum unit cost totaling \$68,790.00 for a total construction contract of \$665,582.00 (Six Hundred Sixty-Six Thousand, Five Hundred Eighty-Two Dollars and Zero Cents).

Respectfully,  
George Armour Ewart, Architect



George A. Ewart, AIA

c: Terry Bobrowski  
Sue Maskaluk  
Mike Foster